

VZCZCXRO7824  
OO RUEHBI RUEHCI RUEHPW  
DE RUEHLM #0985/01 2960542  
ZNR UUUUU ZZH  
O 230542Z OCT 09  
FM AMEMBASSY COLOMBO  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0679  
INFO RUEHNE/AMEMBASSY NEW DELHI 3407  
RUEHIL/AMEMBASSY ISLAMABAD 9022  
RUEHKA/AMEMBASSY DHAKA 1986  
RUEHKT/AMEMBASSY KATHMANDU 7260  
RUEHBI/AMCONSUL MUMBAI 6879  
RUEHCI/AMCONSUL KOLKATA 0441  
RUEHPW/AMCONSUL PESHAWAR 0369  
RUEHKP/AMCONSUL KARACHI 2551  
RUCPDO/DEPT OF COMMERCE WASHDC  
RUEHRC/DEPT OF AGRICULTURE WASHDC

UNCLAS SECTION 01 OF 03 COLOMBO 000985

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E.O. 12958: DECL: 10/23/2019

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SUBJECT: Sri Lanka TIFA Talks Take Incremental Steps Toward  
Resolving Issues

SUMMARY

¶1. (SBU) The United States and Sri Lanka held their seventh annual Trade and Investment Framework Agreement (TIFA) talks in Colombo on October 15, which resulted in incremental advances but no breakthroughs. The TIFA talks covered agricultural and government procurement issues, progress in the Doha round trade negotiations, Sri Lankan proposals for textile preferences, IPR, Sri Lanka's investment climate, and requests for technical assistance. The TIFA talks were held in conjunction with a trade mission to Sri Lanka and a training program on the Generalized System of Preferences (GSP). Sri Lankan Minister of Export Development and International Trade G.L. Peiris led the Sri Lankan delegation, and their primary requests were for trade preferences for the country's war-affected northern and eastern provinces and for USG technical assistance.

¶2. (SBU) The Government of Sri Lanka offered updates on outstanding trade issues, including efforts to bring import tariffs and taxes into international compliance, a public awareness campaign on intellectual property rights, government procurement, and actions taken in certain labor rights cases. The U.S. delegation, headed by Assistant U.S. Trade Representative (AUSTR) for South and Central Asia Michael Delaney, noted that any new trade preference considerations would need to be a part of the upcoming broader USG trade preference review. The U.S. side raised concerns over several agricultural issues and pressed for the GSL to follow WTO notification procedures when making changes to trade-related regulations. Both parties agreed there is significant room for expansion in overall bilateral trade, currently at \$2 billion annually.

SRI LANKA REQUESTS TRADE PREFERENCE AND TECHNICAL ASSISTANCE

¶3. (SBU) Inspired by the proposed Reconstruction Opportunity Zones (ROZ) for Afghanistan and Pakistan, the Government of Sri Lanka (GSL) requested trade preference consideration for its war-damaged northern and eastern provinces to spur economic development now that the 26-year civil war has ended. The proposed preference program would focus on the garment sector, which the GSL argues would contribute to employment for internally displaced persons (IDPs) after they are resettled. Sri Lanka's Joint Apparel Association Forum also made a pitch for ROZ's, noting that several apparel factories have moved to the East but there is the potential for much

more. The GSL also expressed concern over trade preference erosion and a hope that the WTO's Doha round, from which Sri Lanka expects significant benefits, will conclude soon.

14. (SBU) AUSTR Delaney explained that the United States would like to help foster economic development for the northern and eastern parts of the island, but that any new preference programs were unlikely to be established outside of the expected USG trade preference review or the Doha round. In meetings on the margins with the GSL and private industry, econoff explained the difficulty of approval for ROZs, which they understood.

15. (U) In the 2008 TIFA talks, the GSL requested training on the GSP program. Marideth Sandler, USTR's executive director of the GSP program, fulfilled the USG commitment: she came to Colombo, holding a seminar and numerous meetings with private industry to provide a detailed roadmap how to receive GSP tariff benefits. The GSL expressed extensive appreciation for the GSP training.

16. (SBU) The GSL also requested USG technical assistance on agricultural packaging and Food and Drug Administration labeling requirements. The GSL is interested in designating "Ceylon" tea as an exclusive geographic indication, and further intellectual property training would assist police and customs officials.

#### LABOR ACTIONS AND PLANS

17. (SBU) The GSL has made some advances on labor issues. The GSL handed over to USTR a report of actions taken in several of the labor rights cases outlined in the AFL-CIO's petition to revoke Sri Lanka's GSP benefits. A representative from the Ministry of Labor

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Relations and Manpower said that the GSL, in conjunction with local trade and labor unions, is developing an action plan for compliance with International Labor Organization (ILO) standards. The GSL expects formal approval of the action plan by the end of October. Post will meet further with the ILO, unions and the government to assess Sri Lanka's progress on labor rights.

#### INVESTMENT CLIMATE: TARIFFS, TAXES, AND GOVERNMENT PROCUREMENT

18. (SBU) In response to U.S. business concerns that combined tariffs, levies and taxes greatly exceed Sri Lanka's bound rates for many imports, the GSL explained that it had established a Presidential Tariff Commission to simplify its tax and tariff structure and to bring it into compliance with international agreements. The Presidential Tax Commission, which is scheduled to issue its report in several months, also seeks to meet the IMF target of raising tax collection by 2% of GDP by 2011. The GSL outlined improvements in the transparency of its government procurement process, including an appeal process and expanded use of the court system. The USG noted its concern that the GSL had eliminated its government procurement agency. Finally, the GSL has no plans to join the WTO Government Procurement Agreement beyond its current observer status.

#### INTELLECTUAL PROPERTY: SEVERAL STEPS FORWARD

19. (SBU) As agreed in the 2008 TIFA talks, the USG has sponsored several training programs on IPR, including with judges and customs officials. The GSL described its public awareness campaign to promote intellectual property rights, including programs for prosecutors and magistrates and TV shows for the general public. The GSL is also drafting laws for the protection of plant varieties and traditional knowledge. The GSL is currently accepting comments on the traditional knowledge law, which the U.S. Patent and Trademark Office has provided. The GSL's Customs recordation system has been completed but technical difficulties prevent Customs and the National Intellectual Property Office (NIPO, under the Ministry of Commerce) from sharing data. They hope to have a workaround within months. The NIPO Director General has offered to follow-up with specific dates. On software piracy, which is rampant even in government offices, NIPO has sent letters to other government agencies explaining the need to use properly licensed software. The U.S. side noted industry's stated interest in negotiating

concessional pricing for government agencies that convert to legitimate software. The GOSL described a three-step software piracy program (education, warning, and arrest) that its police officers had started in two large cities. Post will investigate and report on whether real progress is being made on these IPR issues.

#### AGRICULTURE - AGREE TO DISAGREE AND KEEP TALKING

¶10. (SBU) The TIFA talks offered little progress on several agricultural concerns, though the two sides agreed to continue technical-level discussions. USDA representative Thom Wright explained that there was no justification for Sri Lanka to continue its ban against U.S. beef exports now that the mad cow problem is under control. Minister Peiris pushed his technical experts to make some movement to open the market. Both sides realized that there is an extremely limited commercial market for U.S. beef, but the USG would like to see movement from Sri Lanka as a gesture that it was taking its commitments to the WTO and the World Organization for Animal Health seriously.

¶11. (SBU) On chicken, the GSL admitted that it intends to protect local chicken farmers by limiting import licenses, but felt these measures are justified through a WTO safeguard mechanism. AUSTR Delaney responded that if this is the case, then Sri Lanka must actually notify the WTO of this position and register the safeguard through formal channels. Additionally, Director General for Animal Production and Health Herath pointed out that on a commercial level, the chicken issue is insignificant because an exception is made for hotels, restaurants and airlines. When pushed to explain how an importer could go about obtaining an import license to service these

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markets, Dr. Herath was unclear.

¶12. (SBU) The GSL showed little flexibility in its bias against genetically modified (GM) food products. USDA asserted that their technical committee for approving imports of GM products lacked the technical capacity to carry out risk assessments, resulting in Sri Lanka's de facto denial of permission for GM grain imports. GSL replied that in the example incident cited (a cancelled GM corn shipment), the shipment was refused on the basis of an incomplete application. On the issue of mandatory GM labeling, the Ministry of Health cited the precautionary principle and stated that consumers have a right to know. The Ministry of Health further pointed out that they would follow CODEX guidelines on GM food labeling, and noted that CODEX had not yet ruled on this matter. Both Minister Peiris and Director General of Commerce Senadhira were concerned by the fact that, if fully implemented, 50%-80% of agricultural imports from the United States would stop. Sri Lankan GM regulatory officials did not appear concerned by this.

¶13. (SBU) The GSL promised to provide its regulations and procedures for meat imports, including microbiological testing, in writing. The GSL also promised to collaborate with USDA to look further into the new prohibition on artificial beverage flavorings. The U.S. delegation emphasized that all agricultural import procedures and protection of local industries by a developing country must be undertaken in line with international agreements which require notification of trading partners.

#### PROGRESS ON SEVERAL BUSINESS DISPUTES

¶14. (SBU) USTR officials raised two U.S. corporate business issues with the GSL. In one case, USTR requested Minister Peiris to ask the Ceylon Electricity Board to bring payments to AES current and to issue the remaining balance on the lines of credit. A CEB official disagreed with the status of the AES accounts, including the lines of credit, and indicated that they were both current. USTR said that there is a difference of opinion between CEB and AES officials with regard to accounting issues and asked that the two sides reconcile the differences and resolve the matter. Minister Peiris asked the CEB official to look into the matter and resolve it. Regarding the second issue, AUSTR Delaney relayed Coca Cola's concerns regarding the ban on coloring ingredients used in drinks, particularly coloring in orange drinks. This ban has dampened Coca

Cola's interest in expanding its investment in Sri Lanka. Delaney said that the ingredient is allowed in over 100 countries but not in Sri Lanka. The U.S. contingent asked the GSL to comply with international standards when making decisions on such matters. GSL indicated that they would look into this matter and get back with us.

#### COMMENT

¶15. (SBU) While the TIFA talks did not lead to any dramatic breakthroughs, the U.S. delegation made clear that a number of areas hinder U.S. investment and bilateral trade between the two countries. During the post-conflict period, and amid ongoing tensions on critical political issues, the TIFA talks (and other TIFA-related opportunities throughout the week) provided an opportunity to demonstrate interest in enhanced bilateral relations.

Post will follow up with the GSL to encourage adherence to the IPR regime, liberalize agricultural imports, and improve transparency in government procurement. End Comment.

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